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EXAMINER				
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The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte HARTLEY MOYES

Appeal 2009-004348
Application 09/985,673
Technology Center 3600

Decided: May 28, 2010

Before JENNIFER D. BAHR, STEVEN D.A. McCARTHY and
MICHAEL W. O'NEILL, *Administrative Patent Judges*.

McCARTHY, *Administrative Patent Judge*.

DECISION ON REQUEST FOR REHEARING

1 The Appellant has filed a “Request for Rehearing in Response to
2 Decision by Board Pursuant to 37 C.F.R. 41.52(a)(1)” [“Request”]. The
3 Request seeks reconsideration of our Decision of December 7, 2009
4 [“Decision”] entering new grounds of rejection against claims 18 and 33

under 35 U.S.C. § 102(b) as being anticipated by Hansen (US 4,812,188, issued Mar. 14, 1989) or, in the alternative, under 35 U.S.C. § 103(a) as being unpatentable over Hansen. We have jurisdiction over the Request under 35 U.S.C. § 6(b).

We GRANT the Request.

We WITHDRAW the new grounds of rejection against claims 18 and 33.

We WITHDRAW Findings of Fact 2-9, 11 and 17-26, as well as the analysis of page 10, line 22 through page 13, line 16 of the Decision, as being unnecessary to our disposition of the appeal.

Claim 18 recites:

18. A hollow core door comprising:

a door frame; and

first and second door skins attached to said door frame so as to define a hollow core area there between, at least one of said skins being a reformed molded wood composite door skin having molded therein a plurality of panels,

wherein said at least one molded door skin has a bond strength of at least about 2.0 N/mm².

The Appellant contends that the process disclosed by Hansen, properly understood, is not so substantially identical to the process disclosed in the Appellant's Specification as to reasonably support an inference that Hansen's process, as disclosed or as modified by reasonable experimentation optimizing parameters described by Hansen, would produce a door skin having a bond strength of at least about 2.0 N/mm². (Request 1). Without this inference, our new grounds of rejection suffer the same defect as the rejections entered by the Examiner, namely, insufficient evidence to support

1 a finding that the level of ordinary skill in the art prior to the disclosure of
2 the Appellant's Specification was adequate to produce a molded wood
3 composite door skin having a bond strength of at least 2.0 N/mm².

4 The Appellant points out at least two distinctions between the process
5 disclosed by Hansen and the process disclosed in the Appellant's
6 Specification. One distinction pointed out by the Appellant (*see* Request 3-
7 4) is that the process described in the Specification starts with a "solid and
8 already pressed flush/flat door blank 10." (Spec. 13, ll. 13-14). The
9 Specification discloses forming the blank 10 from medium density fiber
10 board or hard board bound together with a thermosetting resin binder.
11 (Spec. 13, ll. 15-17). According to the Specification, from about 5% to
12 about 20% of the resin in the blank 10 is uncured or undercured before the
13 final reforming step is carried out. (Spec. 14, ll. 11-12).

14 Hansen's process, on the other hand, starts with a leather-like,
15 bendable plate member which is only slightly compressed. (Hansen, col. 3,
16 ll. 25-32 and 36-38). Hansen's plate member is produced with a low degree
17 of heat supply, so that the binding agent in the material is only partially
18 activated and thus not cured. (Hansen, col. 3, ll. 32-36).

19 Another distinction pointed out by the Appellant (*see* Request 3) is
20 that the Specification discloses adding conditioning resins to the solid blank
21 10 before the reforming step is carried out. (Spec. 10, ll. 5-9). Hansen does
22 not disclose a distinct step of adding conditioning resin to the plate member.

23 One may draw a reasonable inference from these disclosures that the
24 binder in the blank 10 which serves as the starting material for the process of
25 the Specification will have a greater degree of thermoset structure than
26 Hansen's plate member. One may also draw the inference that the addition

1 of the conditioning resin in the process disclosed in the Specification “allows
2 the stretched or broken internal bonds, created when deforming the boards
3 actually repairs these fibers and eventually reforms bonds stronger than were
4 originally evident.” (Spec. 10, ll. 10-14). Since the binder in Hansen’s
5 starting material appears to have less thermoset structure than the blank 10
6 of the Specification, the interaction which the Specification discloses
7 between the conditioning resin and the partially thermoset binder during the
8 final reforming step has no direct analogy in Hansen’s method. In view of
9 these distinctions, we are no longer persuaded that there exists a reasonable
10 basis for belief that a door skin produced by Hansen’s method must
11 inherently have possessed properties such as bond strength similar to those
12 of a door skin produced by the process disclosed in the Specification.

13
14 **DECISION**

15 We GRANT the Appellant’s Request, and withdraw the new grounds
16 of rejection entered in our Decision of December 7, 2009. The portion of
17 our Decision reversing the Examiner’s decision rejecting claims 18-20 and
18 23-39 is unchanged by our decision to grant the Appellant’s Request.

19
20 **GRANTED**

21
22 mls

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